



**Planning Commission
Regular Meeting**

**Tuesday, May 24, 2022, 7:00 P.M.
AGENDA**

Virtual Meeting

**Watch on Webinar: <https://tinyurl.com/pc-2022-05-24>
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>
Telephone: 1 (669) 900 6833
Meeting ID: 883 2384 1452#
One Tap Mobile: US: + 16699006833,,88323841452#**

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held virtually using Zoom.

How to participate in the meeting:

- **Submit public comments in writing. Correspondence received by 10:00 p.m. on Tuesday the week before the meeting will be provided with the agenda materials provided to the Commission.** Correspondence received after this deadline but before the hearing will be conveyed to the Commission as a supplement. Send correspondence to the project planner or to PlanningPublicComment@cityofsanrafael.org; or send in writing to Planning Division, CDD; 1400 5th Ave. 3rd Fl.; San Rafael, CA 94901.
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email city.clerk@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

Members of the public may speak on Agenda items.

CALL TO ORDER

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are limited to three minutes per person and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first, remarks on agenda items will be heard at the time the item is discussed.

CONSENT CALENDAR

The Consent Calendar allows the Commission to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no Commission members who wish to discuss.

1. Approval of the Planning Commission Meeting Minutes of May 10, 2022

Recommended Action – Approve minutes as submitted

ACTION ITEMS

2. Senate Bill (SB) 9, The California Home Act

Proposed Amendments to the San Rafael Municipal Code to Implement Two-Unit Developments and Urban Lots Splits consistent with Senate Bill (SB) 9, The California Home Act.

Project Planner:

Leslie Mendez, Planning Manager Leslie.mendez@cityofsanrafael.org and Jeff Ballantine, Senior Planner, jeff.ballantine@cityofsanrafael.org

***Recommended Action** – Accept public comment, provide feedback regarding proposed amendments to Title 14 and Title 15 of the San Rafael Municipal Code to add provisions to implement Senate Bill 9, and adopt a resolution recommending approval of the proposed ordinance and associated amendments.*

3. “Rules and Procedures” and Selection of Liaisons

Amend the Planning Commission “Rules and Procedures,” and conduct selection of liaisons to DRB meetings for second half of the year.

Project Planner: Leslie Mendez, Planning Manager Leslie.mendez@cityofsanrafael.org

***Recommended Action** - Accept the proposed changes to the Planning Commission “Rules and Procedures;” and select Planning Commission liaisons to the DRB for the second half of calendar year 2022.*

DIRECTOR’S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

Any records relating to an agenda item, received by a majority or more of the Commission less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing “711”, at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.

The Planning Commission will take up no new business after 11:00 p.m. at regularly scheduled meetings. This shall be interpreted to mean that no agenda item or other business will be discussed or acted upon after the agenda item under consideration at 11:00 p.m. The

Commission may suspend this rule to discuss and/or act upon any additional agenda item(s) deemed appropriate by a unanimous vote of the members present. Appeal rights: any person may file an appeal of the Planning Commission's action on agenda items within five business days (normally 5:00 p.m. on the following Tuesday) and within 10 calendar days of an action on a subdivision. An appeal letter shall be filed with the City Clerk, along with an appeal fee of \$350 (for non-applicants) or a \$4,476 deposit (for applicants) made payable to the City of San Rafael, and shall set forth the basis for appeal. There is a \$50.00 additional charge for request for continuation of an appeal by appellant.



**Planning Commission
Regular Meeting**

**Tuesday, May 10, 2022, 7:00 P.M.
MINUTES**

Virtual Meeting

**Watch on Webinar: <https://tinyurl.com/pc-2022-05-10>
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>
Telephone: 1 (669) 900 6833
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CALL TO ORDER

Chair called meeting to order at 7:00 PM. He then invited Planning Manager Leslie Mendez to call roll.

RECORDING OF MEMBERS PRESENT AND ABSENT

PRESENT: JON PREVITALI, CHAIR
SAMINA SAUDE, VICE CHAIR
CAMILLE HARRIS, COMMISSIONER
ALDO MERCADO, COMMISSIONER (Arrived at 7:03)
JON HAVEMAN, COMMISSIONER
SHINGAI SAMUDZI, COMMISSIONER

ALSO PRESENT: LESLIE MENDEZ, PLANNING MANAGER
KRYSTLE RIZZI, PROJECT CONTRACT PLANNER

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

No changes made to the order of the Agenda.

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Previtali invited Planning Manager Leslie Mendez, who informed the community the meeting is being streamed live to YouTube and members of the public could provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone and Zoom.

ORAL COMMUNICATIONS FROM THE PUBLIC

None.

CONSENT CALENDAR

Approval of the Planning Commission Meeting Minutes of April 12, 2022

Chair Previtali invited public comment and there was none.

Commissioner Mercado moved and Commissioner Haveman seconded to approve the Consent Calendar. Chair Previtali invites Planning Manager Leslie Mendez to take roll:

AYES: Commissioners Harris, Haveman, Mercado, Vice Chair Suade, & Chair Previtali
NOES: None
ABSENT: None
ABSTAIN: Commissioner Samudzi

Motion carried 5 – 0

ACTION ITEMS

88 Vivian Street (70-unit Residential Development)

To demolish the existing Country Club Bowl and construct 70 for-sale residential units, including six available to low-income households, in 14 separate buildings.; APN: 008-092-02; Neighborhood Commercial (NC) Zone; Matt Ashton of Ashton 3, LLC Applicant; Charlie Kinstler, Owner; Canal Neighborhood
Project Planner: Krystle Rizzi, Contract Planner, krystle.rizzi@cityofsanrafael.org

Chair Previtali invited Project Planner to present the Staff Report. Krystle Rizzi presented.

Applicant, Matt Ashton, gave a presentation.

Staff & Applicant responded to questions from the Commissioners.

Chair Previtali opened public hearing and asked Staff to open public comment.

Comment in support of project from resident, Melanie Stein.

Comment about impacted parking by resident, Jeri Di Pietro.

Chair Previtali closed public hearing and called on Commissioners, in turn, to ask follow-up questions of Applicant and Staff.

Commissioners discussed general parking concerns in Marin County and San Rafael.

Commissioners offered final comments on the Project.

Commissioner Samudzi moved and Vice Chair Saude seconded a motion to adopt the recommended action, with the corrections highlighted by staff planner per the Staff Report.

Planning Manager takes roll:

AYES: Commissioners Harris, Haveman, Mercado, Samudzi, Vice Chair Saude, &
Chair Previtali
NOES: None
ABSENT: None
ABSTAIN: None

Motion carried 6 – 0

DIRECTOR'S REPORT

Planning Manager reported on the following items:

- Update on the next Planning Commission meeting
- Update on first streamlined DRB review of a 10-unit development on Brookdale.
- Update on the first hybrid meetings of DRB and PC in second half of June 2022.

COMMISSION COMMUNICATION

None.

ADJOURNMENT

There being no further business, Chair Previtali adjourned the meeting at 8:26 PM.

LESLIE MENDEZ, Planning Manager

APPROVED THIS ____ DAY OF _____, 2022

JON PREVITALI, Chair



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: May 24, 2022
Agenda Item: 2
Case Numbers: P22-005
Project Planner: Leslie Mendez, Planning Manager
Jeff Ballantine, Senior Planner

REPORT TO PLANNING COMMISSION

SUBJECT: Proposed Amendments to the San Rafael Municipal Code to Implement Two-Unit Developments and Urban Lots Splits consistent with Senate Bill (SB) 9, The California Home Act

EXECUTIVE SUMMARY

Senate Bill (SB) 9, which took effect on January 1, 2022, is part of the legislature’s multi-year efforts to address the state’s housing crisis by streamlining approval and encouraging production of certain residential developments. Staff has prepared a Draft Ordinance that incorporates the requirements of SB 9 for Two-Unit Developments and Urban Lot Splits and includes City specific standards where allowed. Because residential units created pursuant to SB 9 contribute to the housing stock and contribute towards the City’s regional housing obligation, the Ordinance is intended to facilitate this process and includes a provision to allow Accessory Dwelling Units (ADUs) under 500 square feet in size, which count toward meeting the City’s low-income obligation.

RECOMMENDATION

It is recommended that the Planning Commission accept public comment, discuss and provide feedback regarding proposed amendments to Title 14 and Title 15 of the San Rafael Municipal Code to add provisions to implement Senate Bill 9 and adopt a resolution recommending approval of the proposed ordinance and associated amendments.

BACKGROUND

On September 16, 2021, Governor Newsom signed [SB 9, the California Home Act](#), into law which requires municipalities to allow additional housing development in single-family zoned neighborhoods through subdivisions and additional primary residential units.

This bill, which took effect on January 1, 2022, consists of two primary components:

- 1) Two-Unit Developments (Government Code Section 65852.21). Provisions to allow development of up to two primary residential units on lots in single-family zoning districts; and
- 2) Urban Lot Splits (Government Code Section 6441.7). Provisions to allow the subdivision of lots in single-family zoning districts into two lots.

These two components can be combined such that an Urban Lot Split in conjunction with a Two-Unit Development on each of the resulting parcels would allow for a total of four primary residential units on what was previously a single-family residential parcel. Municipalities must process SB 9 applications ministerially, without discretionary review or a hearing.

SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts (see detailed eligibility requirements below). SB 9 requires the City to approve a Two-Unit Development and Urban Lot Split only if the project conforms to all applicable objective requirements, except as otherwise provided in SB 9. A key exception is that a local agency must eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units of at least 800 square feet in size.

Eligibility Requirements for Two-Unit Developments

SB 9 requires that a Two-Unit Development be considered ministerially, if the proposed housing development meets all the following requirements:

1. The project site is in a single-family residential zoning district.
2. The proposed housing development would not require demolition or alteration of existing housing that:
 - a. Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - b. Is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Has been occupied by a tenant in the last three years.
3. The proposed housing development would not result in the demolition of more than 25 percent of the existing exterior structural walls unless site has not been occupied by a tenant in the last three years.
4. The development is not on a parcel on which the owner has withdrawn it from renting or leasing under Section 7060 of the Government Code (Ellis Act) within 15 years preceding the development application.
5. The project site is not a historic landmark or located within a state or local historic district.
6. The development is not located in specified designated areas, unless certain standards are met. Such designated areas include: high fire hazard severity zone, farmland, wetland, hazardous waste site (according to listing on the Cortese list), flood hazard area as determined by FEMA maps, lands within conservation plans, lands under conservation easement, or lands designated as habitat protection areas for species identified in the California Endangered Species Act (CESA) and the U.S. Endangered Species Act (ESA).

In addition, SB 9 requires that any residential unit created pursuant to the law must be rented for a term longer than 30 days (i.e. no short term rentals are permitted).

Eligibility Requirements for Urban Lot Splits

Similar to eligibility criteria established for Two-Unit Developments, SB 9 requires that the parcel map for an Urban Lot Splits be considered ministerially, if the proposed lot split complies with the following requirements:

1. The parcel being subdivided is located within a single-family residential zoning district and would not result in the demolition or alteration of the following types of housing units:
 - a. Housing unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

- b. Housing unit that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.
 - c. Housing units that have been occupied by a tenant in the last three years.
 - d. Housing units that are located on a parcel on which the owner has withdrawn it from renting or leasing under Section 7060 of the Government Code within 15 years preceding the development application (i.e., an exit of the rental housing business pursuant to the Ellis Act).
2. The Site is not a historic landmark, or located within a historic district, either state or local.
 3. The development is not located in specified designated areas, including a high fire hazard severity zone, farmland, wetland, hazardous waste site (according to listing on the Cortese list), flood hazard area as determined by FEMA maps, lands within conservation plans, lands under conservation easement, or lands designated as habitat protection areas for species identified in the California Endangered Species Act (CESA) and the U.S. Endangered Species Act (ESA).
 4. The parcel has not been established through a prior exercise of an urban lot split authorized by SB 9, and neither the parcel owner nor any person acting in concert with the owner has previously exercised an urban lot split under SB 9 on an adjacent parcel.

In addition, SB 9 requires that the City require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. However, no such affidavit is required of a community land trust or qualified nonprofit.

SB9 allows a city to deny a proposed Two-Unit Development or Urban Lot Split if the project would have a specific, adverse impact, as defined in Public Health and Safety Code Section 65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

ANALYSIS

SB 9 requires that, except as specifically provided within the bill, local agencies may only apply existing objective development standards (i.e. objective zoning, design review, and subdivision standards) provided the standards do not physically preclude the construction of up to two units that are at least 800 square feet in floor area with four-foot side and rear yard setbacks, on each of the existing or newly created lots.

The City’s Municipal Code currently contains objective standards in Title 14 (Zoning) and Title 15 (Subdivisions) that are currently applied to residential projects and/or lot splits and can continue to be applied to these types of projects.

Two-Unit Housing Development Objective Development Standards:

A description of the development standards imposed by SB 9, the City’s existing objective standards, and development standards that are left to the City’s discretion are below followed by staff’s recommendation of the discretionary standards.

Objective Standards Imposed by SB 9

- | | |
|----------------------------|--|
| 1. Min. floor area: | 800 sq. ft. per dwelling |
| 2. Max. rear yard setback: | 4 ft. for dwelling units ≤ 800 sq. ft. |
| 3. Max. side yard setback: | 4 ft. for dwelling units ≤ 800 sq. ft. |

4. No setback may be imposed on an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
5. Max. off-street parking space: 1 per dwelling. No parking required if:
 - a. Parcel is located within one-half mile walking distance of either a high-quality transit corridor; or
 - b. There is a car share vehicle located within one block of the parcel.

Existing Objective Development Standards in the SRMC

The following existing objective development standards in San Rafael Municipal Code (SRMC) Section 14.04.030 would apply to SB 9 applications:

1. Min. front yard setback: 15 ft. to 20 ft., depending on zoning district
2. Max. height: 30 ft.
3. Max. lot coverage: 20% to 40%, depending on zoning district
4. Max. Upper Floor: 50% of max. lot coverage for lots less than 5,000 sq. ft.
5. Max. Upper Floor: 75% of max. lot coverage for lots 5,000 sq. ft. or larger

If a property is in an overlay district, then additional standards would apply. If located in the Eichler and Alliance Homes Overlay District (SRMC Ch. 14.14), then the maximum allowable height is 17 feet. If located in the Hillside Overlay District (SRMC Ch. 14.12), then there are additional restrictions on building height, lot coverage, natural state, gross building square footage, and street and driveway grades. The Wetland Overlay District (Chapter 14.12) and creek setback requirements (Section 14.16.080), also apply to properties that are in the Wetland Overlay District or nearby a creek.

Objective Standards Left to City’s Discretion

Municipalities have the discretion to adopt the following additional standards specifically for SB 9 applications:

1. Impose a maximum floor area of 800 sq. ft. or greater
2. Impose a maximum height for units greater than 800 sq. ft.
3. Impose minimum setbacks for units greater than 800 sq. ft. up to the district minimum
4. Impose no side or rear yard setbacks—other than to accommodate life and safety
5. Impose no required parking
6. Restrict the total number of units to four inclusive of ADUs for sites that utilize both the Urban Lot Split and Two-Unit Development provisions in SB 9
7. Allow ADUs in addition to the primary unit and/or allow and restrict the size of ADUs constructed on sites that utilize both the Urban Lot Split and Two-Unit Development provisions in SB 9

Staff Recommended Objective Standards for Two-Unit Housing Developments

SB 9 is an opportunity to accommodate significant growth and improved diversity in the City’s housing stock. Housing and homelessness is included as one of the four core focus areas adopted by the City Council in the City’s Goals & Objectives FY2021-2022. A key ingredient of this focus area is creating new housing and, particularly, creating new affordable housing. The provisions in SB 9 have the potential to accommodate a significant increase in residential units, as well as accommodate units that are affordable by design. Since SB 9 allows both the production of additional parcels through subdivision, and the development of up to four residential units per parcel on single-family zoned lots, many of these new in-fill units are expected to be smaller than the existing single-family houses, and thus more affordable by design.

To further promote and streamline the production of housing in compliance with the City’s housing goals and to address the region’s housing crisis, while simultaneously considering the impact parking could have on access and evacuation routes, staff has proposed the following objective development standards to

apply to SB 9 applications and has incorporated them in the draft ordinance found in Attachment A of Exhibit 1:

1. No maximum floor area requirement
2. Minimum 4 ft. side and rear setbacks
3. One off street parking space per unit, unless (as required by SB 9):
 - a. Parcel is located within ½ mile of a transit corridor or major transit stop
 - b. Car share vehicle located within one block of the parcel.
4. Allowing ADUs of under 500 square feet in size—which count towards the City’s low income housing obligation—on developments utilizing both the Urban Lot Split and Two Unit Development provisions in SB 9.

Urban Lot Split Subdivision Objective Standards:

A description of the development standards imposed by SB 9, the City’s existing objective standards, and development standards that are left to the City’s discretion are below followed by staff’s recommendation of the discretionary standards.

SB 9 Mandated Standards

SB 9 mandates that the following subdivision standards apply to Urban Lot Split applications:

1. The parcel subdivision would create no more than two new parcels of approximately equal lot area and the smaller parcel shall be not less than forty (40) percent of the lot area proposed for subdivision; and
2. Each parcel would have a minimum size of 1,200 square feet, unless authorized by ordinance.

The City cannot impose standards that would physically preclude the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet. In addition, the City is prohibited from requiring dedications of rights-of-way or the construction of offsite improvements and shall not require the correction of nonconforming zoning conditions as part of any approval for these types of projects.

Objective Standards Left to City’s Discretion

Municipalities have the discretion to adopt the following additional objective standards specifically for SB 9 Urban Lot Split applications:

1. Adopt a minimum lot size smaller than 1,200 square feet per parcel
2. Require easements for the provision of public services and facilities
3. Require that each parcel shall have access to, provide access to, or adjoin the public right-of-way

Staff Recommended Objective Standards for Urban Lot Splits

To encourage resilient development of our neighborhoods, including creation of lots and housing units that have access to utility and effective emergency services, staff recommends and has included the following object standards in the draft ordinance:

1. Require easements for the provision of public services and facilities
2. Require that each parcel shall have access to, provide access to, or adjoin the public right-of-way

Elections to Objective Development standards:

SB 9 requires a local agency to eliminate objective development standards applicable to either an Urban Lot Spit or a Two-Unit Development on a project-by-project basis if the standards would prevent an

otherwise eligible lot from being split or prevent the construction of up to two units of at least 800 square feet in size.

Staff Recommended Election Standards

To assist in the streamlined processing of such future applications that require exceptions to the objective standards and to provide transparency to both applicants and neighboring residents, staff recommends the City adopt a hierarchy of development standards. Staff has suggested, as incorporated in the draft ordinance, that standards be set aside in the following order until the site can contain two, 800-square-foot units:

1. Natural State (where applicable)
2. Lot Coverage
3. Front Setbacks
4. Second Floor Area limitations

ENVIRONMENTAL DETERMINATION

Pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”).

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was published in the Marin IJ on May 7, 2022 and mailed to all stakeholders, agencies and special interest groups on May 6, 2022. A subsequent email notification was sent to all stakeholders, agencies and special interest groups on May 11, 2022. Those noticed included, among others, all neighborhood associations, the Federation of San Rafael Neighborhoods, and housing advocacy groups. As of the writing of this staff report, no public comment has been received. Any communication received will be forwarded to the Planning Commission.

OPTIONS

The Planning Commission has the following options to consider on this matter:

1. Adopt the Resolution recommending City Council Adoption of the proposed ordinance.
2. Adopt the Resolution recommending City Council Adoption of the proposed ordinance with modifications.
3. Direct staff to return with more information.

EXHIBITS

1. Resolution recommending City Council adopt an Ordinance implementing the provisions of SB 9 Attachment A: Draft SB 9 Ordinance

RESOLUTION NO. 22-

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE
CITY OF SAN RAFAEL ADDING SECTION 14.16.282 (TWO-UNIT HOUSING
DEVELOPMENTS) TO CHAPTER 14.16 (SITE AND USE REGULATIONS) OF
DIVISION IV (REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS) OF
TITLE 14 (ZONING) AND CHAPTER 15.155 (URBAN LOT SPLITS) TO TITLE 15
(SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE, TO IMPLEMENT
GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 (SENATE BILL 9)
RELATED TO TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS
(ZO22-003)**

WHEREAS, SB-9 the California Home Act (Chapter 162, Statutes of 2021) enacted Sections 66411.7 and 65852.21 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“Two-Unit Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code Section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code Sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and Two-Unit Developments, respectively, to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code Sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a Two-Unit Development, respectively, that propose to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past three years; and

WHEREAS, Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E) allow a city to deny an Urban Lot Split for properties within a historic district or listed on the State’s Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code Sections 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective design review standards for Urban Lot Splits and Two-Unit Developments, respectively, subject to limits within state law; and

EXHIBIT 1

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of “precluding the construction of two units on either of the resulting parcels from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a Two-Unit Development; and

WHEREAS, Government Code Sections 66411.7 and 65852.21 allow a city to deny a proposed Two-Unit Development or Urban Lot Split, respectively, if the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and

WHEREAS, pursuant to Government Code Sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, on May 24, 2022, the Planning Commission held a duly-noticed public hearing on the proposed amendments to the San Rafael Municipal Code, Title 14 and Title 15, accepting all public testimony and the written report of the Community Development Department, and recommended to the City Council the approval of the amendments; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendments to the San Rafael Municipal Code as outlined in the Attachments A of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

1. The amendments to San Rafael Municipal Code Title 14 – Zoning Ordinance and Zoning Map are consistent with the policies and programs of the San Rafael General Plan 2020 in that as proposed the amendments would:
 - a. Align the city’s regulations to Government Code Sections 66411.7 and 65852.21;
 - b. Be consistent with General Plan Program LU-2.12B (Alternative Housing Types) which supports accommodating innovative housing types and amending the zoning code to support the conversion of existing underutilized buildings into housing units; and
 - c. Be consistent with Policy LU-3.3 (Housing Mix) which encourage a diverse mix of housing choices in terms of affordability, unit type, and size.
2. The public health, safety and general welfare are served by adoption of the proposed amendments to the SRMC, in that they would: (1) implement standards in line with state regulations related to Two-Unit Housing Developments and Urban Lot Splits; and (2) accommodate additional housing units within the City.

EXHIBIT 1

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 24th day of May 2022.

Moved by Commissioner _____ and seconded by Commissioner

_____.

AYES:

NOES:

ABSENT:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Leslie Mendez, Secretary

BY: _____
Jon Previtali, Chair

ATTACHMENTS:

- A. Amendments to San Rafael Municipal Code Title 14 (Zoning) and Title 15 (Subdivisions)

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING SECTION 14.16.282 (TWO-UNIT HOUSING DEVELOPMENTS) TO CHAPTER 14.16 (SITE AND USE REGULATIONS) OF DIVISION IV (REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS) OF TITLE 14 (ZONING) AND CHAPTER 15.155 (URBAN LOT SPLITS) TO TITLE 15 (SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE, TO IMPLEMENT GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 (SENATE BILL 9) RELATED TO TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS

WHEREAS, SB-9 (Chapter 162, Statutes of 2021) enacted Sections 66411.7 and 65852.21 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“Two-Unit Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code Section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code Sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and Two-Unit Developments, respectively, to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code Sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a Two-Unit Development, respectively, that proposes to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past 3 years; and

WHEREAS, Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E) allow a city to deny an Urban Lot Split for properties within a historic district or listed on the State’s Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code Sections 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective design review standards for Urban Lot Splits and Two-Unit Developments, respectively, subject to limits within state law; and

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of “precluding the construction of two units on either of the resulting parcels from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a Two-Unit Development; and

WHEREAS, Government Code Sections 66411.7 and 65852.21 allow a city to deny a proposed Two-Unit Development or Urban Lot Split, respectively, if the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and

WHEREAS, pursuant to Government Code Sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, the City Council desires to implement objective standards and an application process for projects undertaken pursuant to Government Code Sections 65852.21 and 66411.7 by the adoption of such an ordinance;

BE IT ORDAINED by the City of San Rafael as follows:

Section 1. The above findings are adopted and incorporated herein.

Section 2. Section 14.16.282 (Two-Unit Housing Developments) is added to Chapter 14.16 (Site and Use Regulations) of Division IV (Regulations Applying in All or Several Districts) of Title 16 (Zoning) of the San Rafael Municipal Code as set forth below.

14.16.282 – Two-Unit Housing Developments.

- A. Purpose. The purpose of this section is to provide procedures and development standards for the establishment of Two-Unit Housing Developments pursuant to Government Code Section 65852.21. To accomplish this purpose, the regulations outlined herein are determined to be

necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

B. Filing, Processing and Action.

1. Ministerial Review. A Two-Unit Housing Development shall be ministerially approved, without discretionary review or hearing, if the proposed housing development meets all provisions of this chapter. Review shall be done through submittal of a building permit application.
2. The City shall act on an application for a Two-Unit Housing Development within 60 days of receipt of a complete application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay. The City has acted on the application if it:
 - a. Approves or denies the building permit for the Two-Unit Development; or
 - b. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter or other applicable laws and regulations.
3. Adverse Impact Upon Health and Safety. A proposed Two-Unit Housing Development shall be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed Two-Unit Housing Development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
4. Limitations on Approval. A proposed Two-Unit Housing Development shall not be eligible for approval pursuant to this Chapter if any of the following circumstances apply:
 - a. The Two-Unit Housing Development would require demolition or alteration of "protected housing." Protected housing includes:
 - i. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - ii. Housing that is subject to rent control through valid local rent control provisions.
 - iii. Housing that has been occupied by a tenant in the last 3 years
 - b. The Two-Unit Housing Development would be located on a parcel on which the owner has withdrawn it from renting or leasing under

Section 7060 of the Government Code within 15 years preceding the development application (i.e. an exit of the rental housing business pursuant to the Ellis Act).

- c. The Two-Unit Housing Development would be located within a historic district, would be included on the State Historic Resources Inventory, or would be within a site that is legally designated or listed as a city or county landmark or historic property or district.
- d. The Two-Unit Housing Development would be located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code, unless requirements therein are met.

C. Development Standards. The following objective development standards shall apply to Two-Unit Housing Developments. In addition to these standards, all provisions of the California Building Code shall apply to Two-Unit Housing Developments.

1. General Standards.

- a. Two-Unit Housing Developments may either be detached or attached, as long as attached structures meet building code safety standards and are sufficient to allow separate conveyance.
- b. Two-Unit Housing Developments shall be permitted in all single-family residential zones including R2a, R1a, R20, R10, R7.5, and R5.
- c. Short Term Rentals Prohibited. The rental of any unit a Two-Unit Housing Development shall be for a term of longer than thirty (30) days.
- d. Utility Connections. Each primary unit in a Two-Unit Housing Development shall be served by separate water, sewer and electrical utility connections which connect each unit directly to the utility.
- e. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) shall be permitted as set forth in Section 14.16.285 – Accessory Dwelling Units on parcels not created through an Urban Lot Split (Chapter 15.155).
- f. Accessory Dwelling Units (ADUs) shall be permitted as set below on parcels created through an Urban Lot Split (Chapter 15.155).
 - i. A Two-Unit Housing Development proposing one primary dwelling unit shall be permitted ADUs and JADUs as set forth in Section 14.16.285 – Accessory Dwelling Units.
 - ii. A Two-Unit Housing Development proposing a total of two primary dwelling units shall be permitted one ADU per dwelling unit with a maximum size of less than 500 square

- feet. All other provisions and development standards of Section 14.16.285. shall apply.
- iii. Any ADU 500 square feet or greater that was issued a building permit prior to the date of the first reading of this ordinance shall not otherwise preclude development pursuant to this Section.
 - iv. The rental of any ADU/JADU shall be for a term of longer than thirty (30) days.
2. Objective Development Standards. All applicable objective development standards set forth in Title 14 – Zoning of the San Rafael Municipal Code apply to a Two-Unit Housing Development. However, where the following standards conflict or are inconsistent with objective development standards in Title 14, the following standards shall prevail:
- a. Four-foot rear and side yard setbacks are required.
 - b. One off-street parking space is required per dwelling. No parking shall be required if:
 - i. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code; or
 - ii. There is a car share vehicle located within one block of the parcel.
3. Exceptions to Development Standards.
- a. Notwithstanding subsection 2 of this section, all development standards shall be subject to the following exceptions:
 - i. Any standards that would have the effect of physically precluding the construction of two units or that would physically preclude either of the two units from being at least 800 square feet, shall not be imposed.
 - ii. Election of development standards. If necessary, objective zoning, subdivision, or design standards will be set aside in the following order until the site can contain two, 800-square-foot units:
 - a) Natural State (where applicable)
 - b) Lot Coverage
 - c) Front Setbacks
 - d) Second Floor Area limitations
 - iii. No setback shall be imposed for a Two-Unit Housing Development constructed in the same location and to the same dimensions as an existing structure.

- b. Two-Unit Housing Developments are not eligible for any additional Exceptions, Variances, or other deviations from the objective development standards.

Section 3. Chapter 15.155 (Urban Lot Splits) is added to Title 15 (Subdivisions) of the San Rafael Municipal Code to read as follows:

**CHAPTER 15.155
URBAN LOT SPLITS**

15.155.010 Purpose and Intent

It is the purpose of this Chapter to provide procedures necessary for the implementation of Section 66411.7 of the Government Code pertaining to Urban Lot Splits. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

15.155.020 Filing, Processing, and Action

- A. Ministerial Review. An Urban Lot Split shall be ministerially approved, without discretionary review or hearing, if the proposed subdivision meets all provisions of this chapter and conforms to all applicable objective requirements of the Subdivision Map Act (Division 2) commencing with Section 66410 of the Government Code.
- B. Parcel Map. Applicants for Urban Lot Splits shall submit a Parcel Map application.
- C. The City shall act on a Parcel Map application for an Urban Lot Split within 60 days of receipt of a complete application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay. The City has acted on the application if it:
 - 1. Approves or denies a Parcel Map application for an Urban Lot Split; or
 - 2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this Chapter or other applicable laws and regulations.
- D. Parcel maps for Urban Lot Splits shall not be conditioned on dedication of right of way or construction of offsite improvements.

- E. Adverse Impact Upon Health and Safety. A proposed Urban Lot Split shall be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed Urban Lot Split would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- F. Limitations on Approval. A proposed Urban Lot Split shall not be eligible for approval pursuant to this Chapter if any of the following circumstances apply:
1. The proposed Urban Lot Split would require demolition or alteration of “protected housing.” Protected housing includes:
 - a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - b. Housing that is subject to rent control through valid local rent control provisions.
 - c. A parcel on which the owner of residential real property has withdrawn accommodations from rent or lease pursuant to Section 7060 of the Government Code within 15 years preceding the development application (i.e. an exit of the rental housing business pursuant to the Ellis Act).
 - d. Housing that has been occupied by a tenant in the last three years.
 2. The parcel to be subdivided is located within a historic district, is included on the State Historic Resources Inventory, or is within a site that is legally designated or listed as a city or county landmark or historic property or district.
 3. The parcel to be subdivided is located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code and does not satisfy the eligibility requirements therein.
 4. The parcel to be subdivided has been established through prior exercise of an Urban Lot Split pursuant to this Chapter.
 5. Either the owner of the parcel to be subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split pursuant to this Chapter. “Acting in concert” means the owner, or a person acting as an agent or representative of the owner, knowingly participated with another person in joint activity or parallel action toward a common goal of subdividing the adjacent parcel.

15.155.030 Development Standards

The following objective development standards shall apply to Urban Lot Splits. In addition to these standards, all provisions of the California Building Code shall apply to Urban Lot Splits.

A. General Standards

1. Urban Lot Splits shall be permitted in all single-family residential zones including R2a, R1a, R20, R10, R7.5, and R5.
 2. Uses created through an Urban Lot Split shall be limited to residential uses.
 3. Short Term Rentals Prohibited. The rental of any unit created through an Urban Lot Split, either primary or accessory, shall be for a term of longer than thirty (30) days.
 4. Accessory Dwelling Units. Accessory dwelling units and junior accessory dwelling units shall be permitted as set forth in Section 14.16.282.C.1.f.
 5. Objective Development Standards. All applicable objective development standards set forth in Title 14 – Zoning and Title 15 – Subdivisions of the San Rafael Municipal Code apply to an Urban Lot Split in addition to, or except as qualified, below.
 6. Parcels created through Urban Lot Splits shall conform to the following:
 - a. One of the two parcels shall not be smaller than 40% of the lot area of the original parcel area of the subdivision;
 - b. Each of the two parcels shall have a minimum lot size of 1,200 square feet.
 - c. Each parcel shall have access to, provide access to, or adjoin the public right-of-way.
 - d. Each parcel shall possess easements and/or other necessary property rights required for the provision of public services and facilities.
- B. Exceptions to Development Standards.** Notwithstanding subsection B of this section, all development standards shall be subject to the following:
1. Any standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet, shall not be imposed.

2. No setback shall be imposed for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
3. Correction of any legal nonconforming zoning condition shall not be required as a condition of approval of an Urban Lot Split.
4. Urban Lot Splits are not eligible for any additional Exceptions, Variances, or other deviations from the objective development standards.

Section 4: Text amendments are proposed to the following sections of Title 14 – Zoning. New wording is shown in underline and deletions are shown in ~~strike through~~.

- Section 14.03.030 – Definitions. The following definition is added to this Section:
“Two-Unit Housing Development” means a development in compliance with the provisions of SB 9 HOME Act of (SRMC Section 14.16.282) that contains no more than two primary dwelling units and no more than one ADU of less than 500 square feet per primary dwelling unit.
- Table 14.04.020 in Section 14.04.020 – Land Use Regulations (R, DR, MR, HR, PD) is amended as follows:

Type of Land Use	R	DR	MR	HR	PD	Additional Use Regulations
Residential Uses						
Duplex residential	<u>P*</u>	P	P	P	C	<u>*Pursuant to regulations and restrictions outlined in Section 14.16.282</u>

- Table 14.04.030 - Property development standards (R) with footnotes is amended as follows:

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
Minimum lot area (sq. ft.)	2 acres	1 acre	20,000	10,000	7,500	5,000/6,000 (corner)	(J)
Minimum	150	150	100	75	60	50/60	(J)

ATTACHMENT A of EXHIBIT 1
 ITEM 2, PLANNING COMMISSION May 24, 2022

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
lot width (ft.)						(corner)	
Minimum yards							
Front (ft.)	20	20	20	20	15	15	(A), (B)
Side/street side (ft.)	15	15	12'6"	10	6	10% of lot width, min. 3', max. 5'	(C), (D), (I)
Rear (ft.)	25	25	10	10	10	10	
Maximum height of structure (ft.)	30	30	30	30	30	30	(E)
Maximum lot coverage	20%	25%	30%	40%	40%	40%	
Maximum upper story floor size	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	(E), (F), (G)
Private yard area	NR	NR	NR	NR	NR	NR	
Parking	*	*	*	*	*	*	* Based on use. See 14.18

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
							.040., (I)

(I) See Section 14.16.282.C. for property development standard applicable to Two-Unit Developments.

(J) Parcels created through Chapter 15.155 (Urban Lot Splits) are exempt from these standards.

- Section 14.12.030 – Property development standards (-H) is amended as follows: Development standards shall be those of the underlying zoning district with which a hillside development overlay district is combined, provided that the following shall be in addition and shall govern where conflicts arise, except for subsection G, Lot Standards, where the lot size standard of the underlying zoning district applies when more restrictive than the subdivision ordinance. Subsections B, F, G, and I shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Section 14.12.040 – Exceptions to property development standards is amended as follows:

City Council Exception Required. Exceptions to the property development standards of this chapter may be approved by the city council, upon the recommendation of the design review board and the planning commission, when the applicant has demonstrated that alternative design concepts carry out the objectives of this chapter and are consistent with the general plan based on the following criteria:

- A. The project design alternative meets the stated objectives of the hillside design guidelines to preserve the inherent characteristics of hillside sites, display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting; and
- B. Alternative design solutions which minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect significant trees, or protect natural resources result in a demonstrably superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

This section shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Table 14.16.285 in Section 14.15.285 – Accessory dwelling units (ADUs) is amended as follows:

	Attached ADU	Detached ADU	Internal Conversion ADU	JADU*	NOTES
Minimum Floor Area	150 square feet	150 square feet	150 square feet	150 square feet	
Maximum Floor Area ⁽¹⁾	1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less	1,000 square feet	N/A	500 square feet	(1) <u>Less than 500 sq. ft. on parcels that utilize both SRMC Section 14.16.282 and SRMC Chapter 15.155</u>

- Table 14.18.040 – Parking requirements is amended as follows:

Use Classification	Off-Street Parking Required	<u>Additional Standards</u>
Residential		
Single-family residential	2 covered spaces per unit.	<u>See Section 14.16.282.C.2. for parking requirements for Two-Unit Housing Developments</u>
Single-family residential, hillside	On streets less than 26 feet wide, a minimum of two additional on-site parking spaces shall be provided (not on the driveway apron) per unit. These spaces should be conveniently placed relative to the dwelling unit which they serve. This requirement may be waived or reduced by the hearing body when the size or shape of the lot or the need for excessive grading or tree removal make the requirement infeasible.	
Studios (multifamily unit)	1 covered space per unit.	
Studio (duplex unit), 500 sq. ft. or less in	1 space per unit	<u>See Section 14.16.282.C.2 for</u>

Use Classification	Off-Street Parking Required	<u>Additional Standards</u>
size		
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).	<u>parking requirements for Two-Unit Housing Developments</u>
1 bedroom unit	1.5 spaces per unit (including 1 covered space).	
Two-bedroom units	2 spaces (1 covered)	
Three or more bedroom units	2 spaces per unit (including 1 covered space).	

- Section 15.07.020 – Lot design standards amended as follows:

15.07.020 – Lot design standards.

Subsections (a)-(d) shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Section 15.07.030 – Street, driveway and parking standards is amended as follows:

15.07.030 – Street, driveway and parking standards.

Subsection (c) shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Chapter 15.18 – Definitions. The following definition is added to this Chapter:

15.18.375 - Urban Lot Split.

The subdivision of a parcel within a residential single-family zone into no more than two parcels pursuant to the authority set forth in Section 66411.7 of the Government Code.

Section 5: Environmental Review.

The City Council finds and determines that enactment of this Ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code Sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of Sections 65852.21 and 66411.7 of the Government Code.

Section 5: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

Section 6: Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 7: Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the ___ day of _____ 2022, and was adopted at a regular meeting of the City Council of the City of San Rafael on the ___ day of _____ 2022, by the following vote:

AYES:
NOES:
ABSENT:

Kate Colin, Mayor

Attest: _____
Lindsay Lara, City Clerk



REPORT TO PLANNING COMMISSION

SUBJECT: Amend the Planning Commission “Rules and Procedures,” and conduct selection of liaisons to DRB meetings for second half of the year.

EXECUTIVE SUMMARY

On April 18, 2022, the City Council approved a One-Year Pilot Program for streamlined design review for certain residential projects. The program, which takes effect on June 2, 2022, requires revisions to the Planning Commission’s “Rules and Procedures,” which were last amended by the Commission at the January 2022 annual meeting. In addition, Planning Commission must select liaisons to the Design Review Board meetings for the second half of 2022 (July through December 2022).

RECOMMENDATION

It is recommended that the Planning Commission take the following actions:

- a) Consider and accept the proposed changes to the Planning Commission “Rules and Procedures;” and
- b) Select Planning Commission liaisons to the DRB for the second half of calendar year 2022.

BACKGROUND AND ANALYSIS

Consideration of Revisions to Planning Commission “Rules and Procedures”:

On April 18, 2022 the City Council approved a [one-year pilot program for streamlined design review of certain residential projects](#). Projects eligible for streamlined review at the Planning Commission (PC) are residential projects requiring Major Environmental Design Review (SRMC §14.25.040.A) and include either:

- 1) New construction of up to ten residential units; or
- 2) Additions to existing multi-family residential property with three to ten existing units of no more than 40% of building area and no more than three additional units.

These projects will be reviewed concurrently by two appointed Design Review Board (DRB) members and the PC during the public hearing on the project. The Board members, selected from the sitting DRB, will be able to ask questions and will have an opportunity to comment and provide recommendation to the Planning Commission during the public hearing on the project. The appointed DRB members may recommend, and the Planning Commission could refer a project to the full DRB (if a project is controversial, for example).

Staff has revised the PC Rules and Procedures to reflect the changes required by the approved Pilot Project (see Exhibit 1). Revisions are presented (starting on page 6) in ~~strikeout~~ for deleted text and underline for added text. The Planning Commission is asked to review and adopt the amendments.

Selection of Commissioners for Design Review Board Liaison:

Planning Commissioners are expected to serve as liaison to the Design Review Board. Each commissioner (with the exception of the Chair) is requested to serve as liaison for two months, which

involves attendance at up to four, regular DRB meetings during the two selected months of service. The liaison is also expected to report back to the Planning Commission at large during the following meeting, during the Commission Communication time on the agenda. During this year’s annual meeting on January 11, 2022, DRB liaisons were only selected for the first half of the year due to the vacancy in the Commission. Now that the PC is fully appointed, staff is requesting that, with the exception of the Chair, who is exempt, and Commissioner Mercado, who has already served as liaison for two months this year; that the remaining Commissioners volunteer for one month for the second half of the year, with new Commissioner Shalk volunteering for two months. See Table 1 below for a schedule of this year’s DRB meetings and volunteer assignments for the first half of the year.

Table 1. DRB Meeting Dates in 2022 and Liaison Assignments

Months	Commission Liaison	DRB Months	PC Commission Liaison
Tuesday, January 4, 2022 January 19 (Wednesday)	Aldo Mercado	July 6 (Wednesday) Tuesday, July 19, 2022	
Tuesday, February 8, 2022 February 23 (Wednesday)	Shingai Samudzi	Tuesday, August 2, 2022 Tuesday, August 16, 2022	
Tuesday, March 8, 2022 Tuesday, March 22, 2022	Jon Haveman	September 7 (Wednesday) Tuesday, September 20, 2022	
Tuesday, April 5, 2022 Tuesday, April 19, 2022	Aldo Mercado	October 4 (cancelled) Tuesday, October 18, 2022	
Tuesday, May 3, 2022 Tuesday, May 17, 2022	Camille Harris	Tuesday, November 8, 2022 Tuesday, November 22, 2022	
Tuesday, June 7, 2022 Tuesday, June 21, 2022	Samina Saude	Thursday, December 8, 2022 Tuesday, December 20, 2022	

OPTIONS

Regarding the “Rules and Procedures,” the Planning Commission has the following options:

1. Approve the recommended amendments to the “Rules and Procedures” to reflect the streamlined design review pilot program as adopted by City Council;
2. Identify additional areas for further study and direct staff to return with recommended revisions to the “Rules and Procedures” for action at a future meeting.

EXHIBITS

1. Planning Commission draft “Rules and Procedures” with strike changes to reflect revisions, dated May 24, 2022

Exhibit 1

PLANNING COMMISSION RULES AND PROCEDURES CITY OF SAN RAFAEL

Proposed May 24, 2024

I. **Organization and Officers**

A. Organization

1. The Planning Commission shall consist of seven regular members appointed by the Mayor with the approval of the City Council and shall be organized and exercise such powers as prescribed by the City Charter and by the San Rafael Municipal Code (City Code).
2. The term of the Commission members is four years with a staggered expiration schedule.
3. Vacancies on the Commission for other than expiration will be filled by appointment for the un-expired portion of the term.
4. If any Commissioner should have three consecutive, unexplained absences from regular meetings of the Planning Commission as shown in the roll call of the official minutes, the Chair may recommend to the City Council that the seat be relinquished.
5. If any Commissioner wishes to request a leave of absence for three to six consecutive meetings, the request shall be made to and approved by the Chair. A request for a leave of absence for more than six consecutive meetings shall be made to and approved by the City Council.

B. Officers

1. Selection

- a. A Chair and Vice-Chair shall be elected from among the Commission's membership at the Annual Meeting held the first meeting of the calendar year, to serve for a one-year period. It is intended that the Chair and Vice-Chair be rotated among the Commissioners based on tenure, as defined by total years of service. In the event the years of service are identical, tenure will be determined in alphabetical order. It is the general rule that a Commissioner shall not serve as Chair more than once in seven consecutive years. However, in the event that: 1) a position is vacated; 2) a Commissioner is not interested in serving as an officer; or 3) there is limited tenure among the other Commissioners, then a Commissioner can be appointed as an officer more than once in seven years.

- b. The Vice-Chair shall serve as Chair in the following year.
- c. The Chair and Vice-Chair may not succeed themselves. However, in the event that the current Chair or Vice-Chair has served less than a year, the Commission may choose to re-elect her/him for an additional term.
- d. The Vice-Chair shall succeed the Chair if he/she vacates the office and shall serve the un-expired term of the Chair. The Commission shall elect a new Vice-Chair to serve the un-expired term of that office. Selection shall be based on seniority.
- e. In the absence of the Chair and Vice-Chair, the member of the Commission with the longest tenure, as defined by total years of service, shall preside over the meeting. In the event that the years of service are identical, seniority will be determined by alphabetical order.

2. Responsibilities

The responsibilities and powers of the officers of the Planning Commission shall be as follows:

a. Chair

- Preside at all meetings of the Commission.
- Call special meetings of the Commission in accordance with legal requirements and the Rules of Procedure.
- Sign documents of the Commission.
- See that all actions of the Commission are properly taken.
- Assist staff in determining agenda items.
- The Chair shall be an ex officio member of all committees with voice but not vote.

b. Vice-Chair

During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

C. Duties and Powers

1. The Planning Commission shall have the power to recommend to the City Council, after conducting a public hearing, the adoption, the amendment or the repeal of a General Plan, a Neighborhood or Specific Plan, the Zoning Ordinance of the City Code, or a site-specific master plan for a Planned Development (PD) District, or any part thereof, for the physical development of the City.
2. The Planning Commission shall exercise such functions with respect to environmental review, land subdivisions, land use and planning, design

review, and zoning, as may be prescribed by City Code, City resolution, and State law.

3. The Commission shall advise the City Council on those matters falling within its charged responsibilities in a manner reflecting concern for the overall development and environment of the City as a setting for human activities.

D. Rules of Order

Except as otherwise provided in these Rules of Procedure, "Roberts Rules of Order, Newly Revised" shall be used as a guide to the conduct of the meetings of the Planning Commission, provided, however, that a failure of the Commission to conform to said rules of order shall not, in any instance, be deemed to invalidate the action taken.

II. Meetings

A. Public Meetings

All meetings shall be held in full compliance with the provisions of state law, ordinances of the City and these Rules of Procedure.

B. Regular Meetings

1. Regular meetings shall be held on the second and fourth Tuesdays following the first Monday in each month, at 7:00 p.m. in the Council Chambers of the City Hall, unless otherwise determined by the Commission. All regular meetings must be held in the following manner:
 - a. within the city limits of San Rafael.
 - b. using a remote virtual meeting format
2. Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting may be rescheduled to another business day or canceled by motion adopted by the Planning Commission. All meetings must be held within the city limits of San Rafael.
3. A meeting of the Commission may be canceled by the Chair for lack of a quorum, no pending business, or any other valid reason. Such cancellation may be made at any time prior to the scheduled meeting. All efforts shall be made by the Community Development Department staff to notify those involved at the earliest possible time. Prior to the scheduled meeting, the Community Development staff shall post a cancellation notice on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

C. Adjourned Meetings

In the event it is the wish of the Planning Commission to adjourn its meeting to a certain hour on another day, a specified date, time, and place must be set by a majority vote of the Commissioners present, prior to the regular motion to adjourn.

D. Special Meetings

Special meetings of the Planning Commission may be held at any time upon the call of the Chair or by a majority of the voting members of the Commission or upon request of the City Council following at least 24 hours' notice to each member of the Commission and to the press. The time and place of the special meeting shall be determined by the convening authority. At least 24 hours prior to the scheduled special meeting, the Community Development staff shall post a notice of the meeting on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

E. Annual Meeting

The Annual Meeting of the Planning Commission will be held at the first meeting of the calendar year. The meeting will be devoted to the election of a Chair and Vice-Chair for the ensuing year and any other business scheduled by the Commission.

F. Study Sessions/Workshops/Informational Presentations

1. The Commission may be convened in the same manner as prescribed for the calling of a special meeting for the purpose of holding a study session, or for presentations of informational items, provided that no official action shall be taken.
2. Such meetings shall be open to the public.

G. Notification

Public Hearings and Discussion Items - Notice of the time, place/ items to be considered and action pending shall be given in accordance with the requirements of the City Code and State Law.

H. Agenda

1. An agenda for each meeting of the Commission shall be prepared by the Community Development Director or staff in consultation with the Chair.
2. A staff report shall be prepared for each item and distributed to the Planning Commission and made available to the public a minimum of 72 hours prior to a regular meeting.
3. A copy of the agenda shall be posted in City Hall 72 hours before a regular meeting.

4. Items not appearing on the agenda cannot be acted upon or discussed by the Commission. However, the Commission may take action under the following circumstances:
 - a. If the Commission finds, by majority vote, that an emergency situation must be addressed. An "emergency situation" is limited to work stoppages and crippling disasters;
 - b. If by a two-thirds vote (or a unanimous vote if two-thirds of the members are not present), there is a need to take immediate action and the need for action came to the attention of the Commission and staff after the agenda was posted.

Prior to discussing such items, the Commission shall publicly identify the item and shall provide the public an opportunity to provide comment on the item.

5. Members of the public may address the Commission on any agenda item, and may, at the beginning of the meeting, address the Commission on any issue that is not listed on the agenda, provided that the issue is within the jurisdiction and powers of the Planning Commission.

I. Order of Meetings

1. The Order of business shall be as follows:
 - a. The Chair shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
 - b. The Chair shall lead a pledge of allegiance, for in person meeting; the pledge of allegiance will not occur for virtual meetings.
 - c. Members present and absent shall be recorded by roll call.
 - d. The order of the agenda shall be approved as submitted or revised by a majority vote of the Commissioners present.
 - e. The public shall be advised of the procedures to be followed in the meeting including the protocol and time frames for public comment. For virtual meetings, the public will be advised of the different ways to participate. Any member of the audience may comment on any matter which is not listed on the agenda.
 - g. The minutes of any preceding meeting shall be submitted for review and approval by a majority vote of the Commissioners present at that preceding meeting.
 - h. The Commission shall then hear and act upon those proposals scheduled for consideration or public hearing.
 - i. Director's Report.
 - j. Commission Communications.
 - k. Adjournment.
2. Presentation or Hearing of Proposals

The following shall be the order of procedure for hearings/discussion items concerning planning and zoning matters:

- a. The Chair shall announce the subject of the public hearing/discussion item, as noticed.
- b. If a request is made for continuance, a motion may be made and voted upon to continue the public hearing to a definite time and date (noticing not required) or a time and date to be determined (re-noticing required).
- c. Order of Speaking.

The order of speaking shall be as follows:

1. The Chair shall call for commissioners to make ex parte disclosures and potential conflict of interest disclosures with respect to the proposed project.
2. Staff provides a report on the project and summarizes its compliance with San Rafael's General Plan, compliance with State laws and the City Code, the status of environmental review, and the staff recommendation for action(s) by the Commission and Design Review Board Representatives (if applicable).
3. The public hearing is opened.
4. The applicant makes a presentation to the Commission.
5. The public speaks to the Commission and Design Review Board Representatives (if applicable).
6. The Commission and Design Review Board Representatives (if applicable) may ask questions or obtain facts or clarification from staff, the applicant, or the public after each segment of the agenda.
7. The public hearing is closed.
8. If applicable, the Design Review Board Representatives shall make recommendations to the Planning Commission.
9. The matter is returned to the Commission for discussion and action.

- d. Rules of Testimony

The rules of testimony shall be as follows:

1. Upon opening the public hearing, the Chair shall invite the public to speak by inviting each speaker (one-at-a-time) to approach the podium. For virtual meetings, the chair will ask staff to advise the public on the different options for participating. On large or controversial projects where many people wish to provide public testimony, the Chair may request that speaker cards be filled-out and submitted.
2. Persons presenting testimony to the Commission are requested to identify themselves by name and place of residence.

3. Persons presenting testimony to the Commission shall be limited to three (3) minutes for their presentation. This time limit may be limited or extended at the Chair's discretion.
4. If there are numerous people in the audience who wish to participate on the issue and it is known that all represent the same opinion, a spokesperson should be selected to speak for the entire group. At the Chair's discretion, the spokesperson may be granted additional time beyond the three (3) minute limit for his or her presentation.
5. To avoid unnecessary repetitive evidence, the Chair may limit the number of speakers or the time on a particular issue.
6. Irrelevant, defamatory, or disruptive comments will be ruled out of order.
7. No person shall address the Commission without first securing the permission of the Chair.
8. All comments shall be addressed to the Commission. All questions shall be made or directed through the Chair.

e. Applicant Presentations

Applicant presentations shall comply with the guidelines developed by the Planning Commission. Applicants shall be limited to a maximum of ten (10) minutes for their presentation, inclusive of all members of the applicant's team (if applicable). An extension of this time limit may be granted at the Chair's discretion.

f. Design Review Board Representatives (if applicable)

The Design Review Board Representatives shall provide a recommendation to the Planning Commission including any recommended conditions of approval.

J. Motions

1. A motion to adjourn shall always be in order except during roll call.
2. The Chair of the Commission, or other presiding officer, may make and second motions and debate from the Chair subject only to such limitations of debate as are imposed on all members of the Commission.

K. Voting

1. Voting Requirements

- a. A quorum shall consist of four members.
- b. The affirmative vote of a majority of the quorum present is necessary for the Commission to take action on all matters other than those listed under Section c below.
- c. Certain votes of the Commission require a majority vote of the entire Commission (4 votes) to carry. These are:

- Adoption or amendment of a General Plan or any part thereof.
 - Adoption or amendment to any Neighborhood or Specific Plan or any part thereof.
 - Adoption or amendment to the Zoning Ordinance of the City Code or amendment thereto.
 - Adoption or amendment to a site-specific master plan for a Planned Development (PD) District.
 - Other actions as required under federal or state law. (These will be dealt with as they arise.)
- d. When a member of the Commission abstains from voting on any matter before it because of a potential conflict of interest, because the Commissioner does not believe he/she can be objective, or because the Commissioner was absent at any previous hearing on an item, said vote shall not constitute nor be considered as either a vote in favor of or opposition to the matter being considered. Abstentions shall not be allowed for any other reason.
- e. A tie vote shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.

2. Roll Call Vote

Any Commissioner, the applicant or an appellant can request a roll call vote.

For virtual meetings a roll call vote shall be required.

3. Recording of Votes

The minutes of the Commission's proceedings shall show the vote of each member, including whether they were absent, abstained from voting, or failed to vote on a matter considered.

4. Disqualification from Voting

A member shall disqualify himself/herself from voting in accordance with the State Political Reform Act and other applicable state law. When a member is disqualified, he/she shall state, prior to the considerations of such matter by the Commission that the member is disqualifying himself/herself due to a possible conflict of interest and shall then leave the voting area.

III. Review and Amendments Procedure

- A. These Rules of Procedure shall be reviewed at the Annual Meeting of each year. On an ad hoc basis, the chair may appoint a subcommittee to review these rules prior to the meeting. The review subcommittee shall present their recommendations for amending or not amending these rules. Minor changes may be brought forward by staff for the Commission's consideration.

B. In addition, these Rules of Procedure may be amended at any meeting of the Planning Commission by a majority of the membership of the Commission provided that notice of the proposed amendment is received by each Commissioner not less than 5 days prior to said meeting.

(Approved May 9, 2000. Revised February 26, 2002, December 14, 2004, May 29, 2007, January 27, 2009, January 9, 2018, February 11, 2020, January 12, 2021, and May 24, 2022)